

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

G.S. by and through his parents and next  
friends, BRITTANY and RYAN  
SCHWAIGERT, *et al.*,

*Plaintiffs,*

v.

GOVERNOR BILL LEE, *et al.*,

*Defendants.*

Case No. 2:21-cv-02552-SHL-atc

**MOTION OF TENNESSEE CHAPTER OF THE AMERICAN ACADEMY OF  
PEDIATRICS AND AMERICAN ACADEMY OF PEDIATRICS FOR LEAVE TO FILE  
AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY  
INJUNCTION**

Proposed *Amici* move for leave to file the attached amicus brief in support of Plaintiffs' motion for a preliminary injunction.

*Amici* are the leading professional organization of American pediatricians, pediatric medical subspecialists, and pediatric surgical specialists, both nationally and in Tennessee. Collectively, they represent more than 67,000 pediatricians, more than 1,000 of whom practice in Tennessee. *Amici* seek to file this brief to provide information regarding the importance and efficacy of maintaining universal mask policies in schools.

Whether to grant a motion for leave to participate as *amicus curiae* is “within the sound discretion of the courts.” *United States v. Michigan*, 940 F.2d 143, 165 (6th Cir. 1990) (internal quotation omitted). Courts consider whether “the proffered information of amicus is timely, useful, or otherwise necessary to the administration of justice.” *Id.* *Amicus* briefs are “generally appropriate” when “the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Newcomb v. Allergy & ENT Assoc. of Middle Tenn., P.C.*, No. 3:10-cv-1230, 2013 WL 3976627, at \*1 (M.D. Tenn. Aug. 2, 2013) (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997)).

The proposed brief provides information based on the AAP's comprehensive review of the science and medical literature surrounding the use of masks as an infection control measure, including in schools. As explained in the brief, the AAP has reviewed hundreds of articles related to the efficacy and safety of masks, as well as their effects (or lack thereof) on the cognitive, social, and psychological development of children. This wealth of knowledge constitutes “unique information beyond the help that the lawyers for the parties are able to provide.” *Id.*

Counsel for both Plaintiffs and Defendants have informed counsel for proposed *amici* that they consent to or do not oppose this motion.

Dated: September 7, 2021

Respectfully submitted,

s/ Samara M. Spence  
Samara M. Spence (TN Bar 031484)  
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\* *Pro hac vice* motion pending

#### **CERTIFICATE OF CONSULTATION**

Counsel for *Amici* consulted with counsel for the other parties concerning this motion via email on September 3, 2021. Plaintiffs and Defendant State of Tennessee consented to this motion and Defendant Shelby County stated that it does not object.

Dated: September 7, 2021

Respectfully submitted,

s/ Samara M. Spence  
Counsel for *Amici*

#### **CERTIFICATE OF SERVICE**

I certify that on September 7, 2021, the above motion was filed using the court's Cm/ECF system, which will notify all registered counsel.

Dated: September 7, 2021

Respectfully submitted,

s/ Samara M. Spence  
Counsel for *Amici*